



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 25691199

Date: MAR. 13, 2023

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (National Interest Waiver)

The Petitioner, a human resources manager, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree, as well as a national interest waiver of the job offer requirement attached to this classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Texas Service Center denied the petition, concluding that the record did not establish the Petitioner's eligibility for a national interest waiver under the *Dhanasar* framework. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

To establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act.

They must then establish that they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. While neither the statute nor the pertinent regulations define the term "national interest," *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,¹ grant a national interest waiver if the petitioner demonstrates that:

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.²

¹ *See also Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (concluding USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

² *See Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

The Director determined that the Petitioner qualifies for the EB-2 classification as an advanced degree professional and that her proposed endeavor has substantial merit. The remaining issue to be determined is whether she has established eligibility for a national interest waiver under the *Dhanasar* framework.³

On appeal, the Petitioner relies, in part, on her experience to establish the national importance of her proposed endeavor. However, the Petitioner's expertise and record of success in previous positions are considerations under *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the Petitioner has demonstrated, by a preponderance of the evidence, the national importance of her proposed work.

She also reiterates the importance of human resource management. In determining national importance, however, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, we focus on the "specific endeavor that the foreign national proposes to undertake." *Id.* at 889. We further indicated that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* We also stated that "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.* at 890.

As explained by the Director, in *Dhanasar*, we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. Similarly, the record here does not establish that the Petitioner's job as a human resources manager would impact the industry more broadly, as opposed to being limited to her employer(s).

We are also not persuaded by the Petitioner's arguments that the proposed endeavor has national importance due to the shortage of professionals. The Petitioner has not established that her proposed endeavor would impact or significantly reduce the claimed national shortage. Further, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

The Petitioner does not offer sufficient evidence to demonstrate that the prospective impact of her proposed endeavor rises to the level of national importance. Furthermore, the Petitioner has not demonstrated that the specific endeavor she proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without evidence regarding any projected U.S. economic impact or job creation directly attributable to her future work, the record does not show that benefits to the regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

For these reasons, the Petitioner has not established the national importance of her proposed endeavor. Because the identified basis for dismissal is dispositive of the Petitioner's appeal, we decline to reach

³ While we do not discuss each piece of evidence individually, we have reviewed and considered each one.

and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that “courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach”); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that she has not established she is eligible for, or otherwise merits, a national interest waiver. Thus, the appeal will be dismissed.

ORDER: The appeal is dismissed.